



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

October 11, 2013

CERTIFIED MAIL

Mr. Tom Carpenter
Hanford Challenge
219 1st Avenue South
Suite 310
Seattle, Washington 98104

Dear Mr. Carpenter:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2013-00962)

This letter is our final response to your Freedom of Information Act (FOIA) request that you sent to this office requesting agency records relating to or generated in connection with classifying Hanford tank waste as transuranic, or TRU, waste that could be sent to the Waste Isolation Pilot Plant (WIPP) in New Mexico including:

1. "Any and all records on the above subject reflecting correspondence (including letters and emails) between the Department of Energy Hanford offices, and
 - its contractors,
 - the State of Washington, including any agency thereof and/or the Office of the Governor, the State of New Mexico, including any agency thereof, and/or the Office of the Governor,
 - any committee, subcommittee, or member of Congress,
 - any other DOE office external to Hanford, including but not limited to Headquarters' offices, including the Office of the Secretary of Energy, EM, HSS, General Counsel, or other DOE office, and/or
 - any other external entity if the correspondence and/or email relates to or is generated in connection with the TRU waste issue."
2. any and all records on the above subject reflecting correspondence (including letters and emails) between the Department of Energy contractors, and
 - the Department of Energy,
 - the State of Washington, including any agency thereof and/or the Office of the Governor,
 - the State of New Mexico, including any agency thereof, and/or the Office of the Governor,
 - any committee, subcommittee, or member of Congress,
 - any other DOE office external to Hanford, including but not limited to Headquarters' offices, including the Office of the Secretary of Energy, EM, HSS, General Counsel, or other DOE office, and/or

- any other external entity if the correspondence and/or email relates to or is generated in connection with the TRU waste issue.”
3. any and all records reflecting an analysis of Hanford HLW tanks identified as potential TRU waste tanks.”

In an e-mail messaged dated May 6, 2013, you limited the date range from January 1, 2003, to the date of your request. Enclosed are documents responsive to Item 1 (see Enclosure I) and Item 2 (see Enclosure II):

After review, the DOE has determined that certain information should be withheld pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5) and Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6). Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. 5 U.S.C. § 552(b)(5). This Exemption protects those documents normally privileged in the civil discovery process, such as pre-decisional, deliberative process material. The deliberative process protects advice, recommendations, and opinions that are pre-decisional and part of the decision-making process of the Government. This privilege protects not merely the documents, but also the integrity of the deliberative process itself where the exposure of that process, or an element thereof, would result in harm. The material being withheld as deliberative includes exchanges between government employees and government representatives regarding decisions not yet made. It is reasonably foreseeable that release of such information could chill open and frank discussions, limit government personnel’s range of options to consider, and thus detract from the quality of Agency decisions. For these reasons, the information is being withheld.

In addition, we have deleted information on pages 69, 71, 173, 175, 367, 368, 459, 460 and 461. These documents are confidential communications between an attorney and his/her client relating to a legal matter for which the client sought professional advice. We are informed that these documents have retained their confidential nature and have not been disclosed elsewhere. Therefore, these documents are withheld pursuant to Exemption 5 of the FOIA, which protects the attorney-client privilege.

In the documents, we have also deleted personal cell phone numbers and home phone numbers pursuant to Exemption 6 of the FOIA. Exemption 6 is generally referred to as the “personal privacy” exemption; it provides that the disclosure requirements of FOIA do not apply to “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). In applying Exemption 6, DOE considered: 1) whether a significant privacy interest would be invaded; 2) whether the release of the information would further the public interest by shedding light on the operations or activities of the Government; and 3) whether in balancing the privacy interests against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy. The information withheld under Exemption 6 consists of an email address and qualifies as “similar files” because it is associated with an individual entitled to privacy. Therefore, we have determined that the public interest in releasing this information does not outweigh the overriding privacy interests in keeping this information confidential.

All releasable information in the documents has been segregated and is being provided to you. The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for any information denied to you in this letter. Any such appeal shall be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615, and shall be filed within 30 days after receipt of this letter. Should you choose to appeal, please provide this office with a copy of your letter.

If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

-Original Signed By-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosures